

**REMARKS**

**Status of the Claims**

- Claims 1, 2, 4 and 5 are pending in the Application.
- Claims 1, 2, 4 and 5 are rejected by Examiner.
- Claims 1 and 4 have been amended.

**Claim Rejections Pursuant to 35 U.S.C. §112**

Claim 4 stands rejected under 35 U.S.C. §112 second paragraph as being indefinite concerning the term “the existing network”. Claim 4 is amended to properly refer to “an existing network” to provide antecedent basis. Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. §112 rejection based on the current amendment.

**Claim Rejections Pursuant to 35 U.S.C. §103**

Claims 1 and 4 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,184,767 B2 to Gandolfo in view of U.S. Patent No. 7,289,463 B2 to Ozugur. Applicant respectfully traverses the rejection via amendment.

The failure of an asserted combination to teach or suggest each and every feature of a claim remains fatal to an obviousness rejection under 35 U.S.C. § 103. Section 2143.03 of the MPEP requires the “consideration” of every claim feature in an obviousness determination. To render a claim unpatentable, however, the Office must do more than merely “consider” each and every feature for this claim. Instead, the asserted combination of the patents must also teach or suggest *each and every claim feature*. See *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) (emphasis added) (to establish *prima facie* obviousness of a claimed invention, all the claim features must be taught or suggested by the prior art). Indeed, as the Board of Patent Appeals and Interferences has confirmed, proper obviousness determination requires that an Examiner make “a searching comparison of the claimed invention - *including all its*

*limitations - with the teaching of the prior art.*" See *In re Wada and Murphy*, Appeal 2007-3733, citing *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis in original). "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious" (MPEP §2143.03, citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)).

The Applicant respectfully submits that for the reasons discussed below the subject claims are patentably distinguishable over the cited combination because the cited combination fails to disclose or suggest each and every one of the elements as recited in the amended claims. Reconsideration of the rejection is earnestly solicited based at least on the following remarks.

Claims 1 and 4 are amended by adding that a plurality of wireless terminals disassociates from the existing network and that the access point of the new network is selected among the disassociated wireless terminals by the disassociated wireless terminals. Support for the latter can be found in the as-filed specification on page 4, lines 26-29 ("According to an embodiment, several terminals of the same existing network can decide to disassociate from the existing network to create their own network. These terminals then initiate a selection process to determine which of these terminals will be the access point of the new network."). No new matter is believed to be added. The Examiner's reconsideration of the rejection in view of the following remarks is respectfully requested.

Gandolfo recites methods for facilitating communications between multiple overlapping or adjacent wireless personal (or local) area networks. The present office action indicates that Gandolfo does not disclose or suggest at least "the wireless terminal is initially part of an existing centralized network that includes an access point able to control the association of wireless terminals to the existing centralized network" and "disassociation of the wireless terminal, initiated by the wireless terminal, from the existing centralized network" as recited in pending Claim 1. Applicant agrees.

Moreover, Gandolfo does not disclose or suggest the selection of one of said disassociated wireless terminals by said disassociated wireless terminals as an access point of the new network as recited in amended Claim 1. Indeed, Gandolfo only describes on column 9, lines 23-29 that a controller-capable device can create a new network. Applicant submits that Gandolfo does not teach or suggest a selection of a device having initiated a disassociation from an existing network by the devices having initiated a disassociation from the existing network, the selected device acting as access point of the new created network.

Ozugur has been cited to cure the deficiencies of Gandolfo. However, Ozugur also fails to disclose or suggest the elements missing in Gandolfo. Ozugur is directed to a method for unicast delivery of IP data packets to mobile stations associated with access points of the wireless network. As described on column 7, lines 7-9 of Ozugur, "When a mobile station becomes disassociated, it must begin a new association before being able to communicate with an access point again". However, Applicant respectfully submits that Ozugur does not disclose that one disassociated mobile station will act as access point in another network, let alone that a disassociated station is selected by a plurality of disassociated stations for being an access point, as included in amended Claim 1.

It is therefore, respectfully submitted that Ozugur fails to cure the deficiencies of Gandolfo and that the cited combination of Gandolfo and Ozugur fails to disclose or suggest at least the aspect of the selection of one of the disassociated wireless terminals by said disassociated wireless terminals as access point of the new network as recited in the pending claims. Thus, even if combined, the suggested combination fails to disclose or suggest each and every limitation of the pending claims.

Applicants' independent Claim 4 recites an apparatus and includes several similar distinguishing features as discussed above with respect to Claim 1. Applicant's argument in support of the distinctiveness of amended Claim 1 compared to the cited art also applies to amended Claim 4.

Since the combination of Gandolfo and Ozugur fails to teach or suggest all elements of Claims 1 and 4, then the combination of Gandolfo and Ozugur cannot

render obvious amended Claims 1 and 4 under 35 USC §103(a). Amended Claims 1 and 4 are believed to be patentably distinguishable over the cited references for at least the stated reasons. Reconsideration of the rejection is earnestly solicited.

Claims 2 and 5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gandolfo (US 7,184,767 B2) in view of Ozugur (US 7,289,463 B2) and in further view of Norman et al. (US 7,082,535 B1).

Applicant submits that Norman is directed to providing a proxy service in wireless network legacy systems to facilitate wireless authentication and in no way to the creation of a new network by a wireless terminal acting as AP after disassociation from an existing network, the new network and the existing network not interfering together. Therefore, the teaching of Norman does not in any way cure the deficiencies present in the teaching of Gandolfo and Ozugur with regard to Claim 1 as discussed above. Since Claim 1 is patentable over Gandolfo and Ozugur, and since Norman does not teach the features lacking in Gandolfo and Ozugur, then amended Claim 1 continues to be patentably distinct from the combination of Gandolfo, Ozugur, and Norman. The same can be said of pending Claim 4.

Claims 2 and 5 are dependent on amended Claims 1 and 4 respectively, and are considered patentable for the reasons presented above with regard to Claims 1 and 4 per MPEP §2143.03. Therefore, it is respectfully submitted that the combination of Gandolfo, Ozugur, and Norman fails to teach or suggest the features of Claims 2 and 5. Consequently, withdrawal of the rejection of dependent Claims 2 and 5 is respectfully requested.

### **Conclusion**

Applicant respectfully submits that the pending claims patentably define over the cited art and respectfully requests reconsideration and withdrawal of the 35 U.S.C. §103 rejections of the pending claims.

Having fully addressed the Examiner's rejections, it is believed that, in view of the preceding amendments and remarks, this application stands in condition for

allowance. Accordingly then, reconsideration for a notice of allowance is also respectfully solicited.

If there are any additional charges in connection with this requested amendment, and request for continued examination, the Examiner is authorized to charge Deposit Account No. 07-0832 therefore.

Respectfully submitted,

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